



Security Council

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Letter dated 18 September 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 5 June 2002 (S/2002/629).

The Counter-Terrorism Committee has received the attached supplementary report from the Republic of Moldova submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its attachment to be circulated as a document of the Security Council.

(Signed) **Jeremy Greenstock**
Chairman

Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism



Annex

Note verbale dated 5 September 2002 from the Permanent Mission of the Republic of Moldova to the United Nations addressed to the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of the Republic of Moldova to the United Nations presents its compliments to the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism, and has the honour to transmit the additional information requested by the Committee in the context of resolution 1373 (2001) (see enclosure). The request was made following receipt of the report submitted by the Republic of Moldova.

Enclosure

Supplementary report of the Government of the Republic of Moldova to the Counter-Terrorism Committee of the Security Council in response to the letter of the Chairman of the Committee dated 28 May 2002

The Republic of Moldova is fully committed to combating terrorism in all its forms and to co-operate with the United Nations, its Member States and particularly with the Counter-Terrorism Committee established by the Security Council pursuant to Resolution 1373 (2001).

In December 2001 the Government of the Republic of Moldova submitted a report to the United Nations Security Council Counter-Terrorism Committee setting out steps Moldova had taken to implement, and in accordance with, United Nations Security Council Resolution 1373 (2001). On 28 May 2002 the Republic of Moldova was asked by the Counter-Terrorism Committee to provide further information on issues addressed in the report.

The following information is provided in response to the Counter-Terrorism Committee's request.

Sub-paragraph 1 (b)

- **Please provide a detailed outline of Law No. 539-XV of 21 December 2001 on combating terrorism. Please indicate in the outline an explanation of the interrelationship between that law and paragraph 63-1, and other relevant provisions, of the Criminal Law.**

The Law on combating terrorism represents itself judicial and organizational framework of the anti-terrorist activity in the Republic of Moldova, the way of co-ordination of the specialized anti-terrorist structures, of actions undertaken by central and local authorities, by public associations and organizations, by decision making persons and other persons, as well as it contains the rights, obligations and guaranties of persons in relation to the activity on combating terrorism.

The legal basis of the activity on combating terrorism includes the Constitution of the Republic of Moldova, European Convention on the suppression of terrorism, principles and norms of the International Law, international treaties to which Moldova is a party, the Law on combating terrorism and other normative acts which regulate relations in this sense.

The Law on combating terrorism operates with the following notions:

Terrorism - commitment of explosions, arsons or other actions which create danger for human lives or cause considerable material damage, or provoke other grave social consequences aimed to the violation of public security, intimidation of population or determination of the public authorities or some individuals to take some certain decisions, as well as threatening with the commitment of these actions with the same purposes.

Terrorist activity – actions which include:

- planning, preparation, attempt to commit and commitment of a terrorist act;
- instigation to a terrorist act, to use of violence against individuals and entities, to destruction of material objects with terrorist purposes;

- setting up of an illegal armed formation, a criminal community (organization), an organized team with a purpose of commitment of a terrorist act, as well as participation in such act;
- recruitment, equipping, training and use of terrorists;
- financing of a terrorist organization or a terrorist group, or providing them with other assistance.

International terrorist activity – terrorist actions committed:

- by a terrorist, a group of terrorists or a terrorist organization on the territory of 2 or more states, causing damages to the interests of these states;
- by citizens of one state against citizens of another state or on the territory of another state;
- in case when as terrorist, as well as his victim are citizens of the same state or of different states, but the crime was produced outside of the territory of these states.

Offences with a terrorist character:

- offence which is accompanied with an attempt of illegal aircraft capture;
- offence directed against the safety of civil aviation;
- a dangerous offence which constitutes an attempt on life, body integrity or freedom of internationally protected persons, including diplomatic agents;
- offence aimed to the taking of hostages, kidnapping or illegal sequestration of persons;
- offence committed with use of bombs, grenades, missiles, machine guns, by envelopes or parcels the use of which represents danger for persons;
- an attempt to commit one of the above mentioned offences, or complicity to them or to an attempt to commit them.

Terrorist – a person who is involved in a terrorist activity in any form.

Terrorist group – two or more persons associated to each other with a purpose to commit a terrorist activity.

Terrorist organization – an organization created with a purpose of commitment of terrorist activity or organization which admit resorting to terrorism in its activity. An organization is considered terrorist if at least one of its structural subdivisions commit terrorist activity.

Combating terrorism – activity on prevention, tracing out and stopping of terrorist activity and of attenuation of its consequences.

Anti-terrorist operation – special measures aimed to stop a terrorist act in order to ensure security of persons, neutralize terrorists and attenuate its consequences.

Zone of conduct of an anti-terrorist operation – some certain sectors of a locality, a vehicle, a building, a construction, or other premises and their neighborhood territory, on which perimeter an anti-terrorist operation is conducted.

Taking hostages – a forced holding by a terrorist or a group of terrorist of some persons with purpose to force individuals, entities or public authorities to fulfil their demands.

Combating terrorism in the Republic of Moldova is based on the following principles:

- a) legality;
- b) priority of the measures on preventing terrorism;
- c) inevitability of punishment for commitment of a terrorist act;
- d) combining of public and secret methods of combating terrorism;
- e) use of a complex of judicial, political, social-economical and prophylactic measures;
- f) priority of protection of the rights of persons who are in danger because of a terrorist act, minimizing of human losses;
- g) minimal yielding in negotiations with terrorists;
- h) unipersonal conduct of all forces and means involved in anti-terrorist operations;
- i) minimum publicity on technical procedures, ways of conduct of anti-terrorist operations and its participants.

The Art. 63 of the Criminal Law stipulated that terrorism represents a criminal activity of some persons or some groups of persons which is aimed to modify in the Republic of Moldova, or in other states, political, economical and social structures legally constituted, by threatening with the use of violence or through resorting to it against population or some individuals, and which jeopardizes fundamental human rights, particularly, the right for life, right for physical integrity and for individual freedom.

This notion did not ensure a full penal responsibility in comparison with the Law on combating terrorism, therefore, in order to do away with these discrepancy, in the new Criminal Law the notion of terrorism was formulated in accordance with the Law on combating terrorism.

With a view to a more efficient application of the provisions of the Art. 63-1 of the Criminal Law, the Law on combating terrorism was completed, by the Law No. 1120-XV of June 13, 2002, with a new article, which follows:

“Art. 8-1. Suspension of financial operations on the indication of the authorities engaged in preliminary investigations

- (1) Organizations which perform financial operations are obliged, on the indication of the authorities engaged in preliminary investigations, to freeze bank accounts, financial assets and other economical resources of persons involved in commitment or attempt of commitment of terrorist acts, or in favoring of such actions; of entities dependant from or directly managed by these persons; of individuals or entities which act on behalf or by indication of these persons, including means derived or generated from property owned or controlled directly or indirectly by the enumerated persons, as well as by their associates.
- (2) Organizations which perform financial operations, executing the indication of the authorities engaged in preliminary investigations, are obliged to inform immediately the authorities about freezing of bank accounts, financial assets and other economical resources.
- (3) Authorities engaged in preliminary investigations are obliged, within their mandate, to undertake urgent actions in view of the investigation of the traced case, with further informing of the organization which has performed the financial operation about the decision taken”.

At the same time, in accordance with the Law's stipulations, two Government decisions were adopted: No. 778 of 14.06.2002 on approval of the Regulations-type of the Operational Group for conducting an anti-terrorist operation, and No. 873 of 08.07.2002 on approval of the Regulations on the modality of social rehabilitation of persons suffered from a terrorist attack.

Sub-paragraph 1 (c):

Please provide an outline of Law No. 633-XV on money laundering. Please include in the outline:

• an indication whether the obligation imposed on 'organizations which execute financial operations' to suspend, and report on, suspicious transactions extends beyond banks and other intermediaries in the conventional financial sector to other intermediaries, such as lawyers;

The Law No. 633-XV on preventing and combating money laundering was adopted on November 15, 2001, being then completed and modified by the Law No. 1150-XV of June 21, 2002. The necessity of its completing and modifying was urged after Moldova has ratified, on March 15, 2002, the European Convention of 1990 on money laundering, tracing out, sequestration and confiscation of incomes originated from criminal activity.

In accordance with stipulations of the Art. 3 of the Law, the notion "organizations which perform financial operations" includes:

- a) banks, branches of foreign banks, other financial institutions and their branches;
- b) stock exchanges, other exchanges, investment funds, insurance companies, fiduciary companies, commercial offices of dealers and brokers, other entities, organizations and institutions (hereinafter referred to as institutions) which perform operations of receiving, sending, alienation, transportation, exchange or storage of financial resources or values; institutions which legitimate or register property right; bodies which provide judicial, public notary, book-keeping and financial-banking assistance, as well as any other natural or corporate persons which conclude transactions except financial-banking system.

• an indication of what constitutes a suspicious financial operation; and

According to the stipulations of the Art. 5 of the Law, as suspicious financial operations are considered the following:

- a) performing of one single operation with financial resources in cash or performing of more operations in cash in circumstances which emphasize the absence of relationship between these operations and economical activity of the client;
- b) deposition on the account or money transfer by a natural or corporate person of an amount in cash when exists a reason to consider that, judging on the sphere of activity of the person and on other circumstances, the amount deposited or transferred is in disagreement with incomes and patrimonial situation of the person;
- c) transfer and receipt of financial resources in cash by a natural or corporate person which usually performs deductions by checks or money orders;
- d) possession by a client of a bank account with no tangents to his economical activity, to which are transferred money in amounts exceeding reporting limits;
- e) transfer to the account of a client of financial resources, made in checks, from different natural or corporate persons with whom he has no contractual or production relations;
- f) deposition on the account of financial resources declared as an income, which is not natural for the client;
- g) buying or selling of personal values in circumstances which denote the suspicious character of the financial operation;
- h) acquisition in cash of personal values by legal entities;
- i) operations with money checks or other instruments emitted for a bearer;

- j) operations in which one of the parties is a resident of an off-shore zone, or operations effected through accounts of off-shore banks;
- k) operations performed through companies and/or banks from countries which does not have legal standards against money laundering or have but inadequate in this sense, or represent an increased risk because of the high level of criminality and corruption, as well as operations performed with residents of these countries;
- l) request for a credit which is guaranteed by a document certifying the existence of deposits in foreign banks, in case when there are information about suspicious character of the deposits.

• an explanation of the applicability of the money-laundering law specifically to the funds and other financial assets or economic resources of persons having links with terrorist activities, especially in cases where the source of those funds, assets and resources is legitimate.

According to the Art. 4 of the Law, organizations which perform financial operations are obliged:

- to accumulate, to analyze and to register data about their clients based on the identity papers of persons and entities; to obtain information about the identity of persons on whom an account is opened or a transaction is effected, if there is any doubt that these clients are acting on personal behalf; to check the authorization of the person who intends to act on behalf of the beneficiary and to identify the person;
- in case of tracing out of some circumstances which denote suspicious character of the financial operation, which is being preparing, performing or already performed, to inform General Prosecutor's Office about it in 24 hours;
- on the written request from the General Prosecutor's Office to present information, documents, any other available materials referred to performing of limited or suspicious financial operations;
- to pay a special attention on clients and resident beneficiaries which receive funds from countries identified as ones which does not have legal standards against money laundering or have but inadequate in this sense, or represent an increased risk because of the high level of criminality and corruption. General Prosecutor's Office will accumulate and distribute respective information to organizations which perform financial operations.
- to register limited or suspicious financial operations through filling in a special form, designed by the General Prosecutor's Office, indicating all data on the operation in case.

In the same time, organizations which perform financial operations have to draft and implement programs on combating money laundering, which will include at least:

- elaboration of methods, procedures and measures of internal control, inclusively by assignment of high-ranking officials responsible to ensure the compliance of the policy and procedures of the organization which performs financial operations with the statute inquires and legal regulations on combating money laundering, and to respect the strict rules on "know your client", in order to promote ethic and professional standards in the financial sector and prevent the use of the organization, intentionally or not, by criminal elements;
- a continuous training program of personnel, strict selection of employees, in order to ensure their high professional level;
- resorting to an audit in order to exercise the control on the system.

The subject of the question could be also considered under the provisions of the Art. 8/1 of the Law on combating terrorism, quoted in the response to the question from Sub-paragraph 1(b) of the present Report.

Sub-paragraph 1 (d):

- **Please provide an outline of the provisions of the various laws mentioned in the report in relation to this sub-paragraph (other than those mentioned above) that relate specifically to the requirements of this sub-paragraph and an indication of their interrelationship with one another and with the laws mentioned above.**

The Law No. 618-XIII of 31.10.1995 on state security:

The ensurance of the state security:

The security of state is ensured through the establishment and application by the state of a system of measures of economic, politic, judicial, military, organizational and other nature, oriented to the disclosure, prevention and timely combating of the threats against the state security.

Threats against the state security:

- (1) Threats against the state security include a whole range of actions, conditions and factors which presents danger for state, society and personality.
- (2) An extremely danger for the state security represents: preparing and commitment of terrorist acts, of attempts on life, health and inviolability of supreme official persons of the republic, of state officials and public leaders from other states being present in the Republic of Moldova.

The Law No. 619-XIII of 31.10.1995 on state security bodies

State security bodies are the specialized structures of the executive power, which serve to ensure, within their competence, the state security of the Republic of Moldova.

According to the Art. 13 of the nominated law, the system of the state security bodies consists of the Information and Security Service of the Republic of Moldova, Protection and State Guard Service, Department of Border Control Troops, as well as of educational institutions and other non-military institutions and organizations of the state security bodies.

State security bodies has the following prerogatives:

- combating terrorism, organized crime, corruption, which undermine the state security, as well as disclosure, prevention and combating of other crimes, investigation of which is in the competence of the state security bodies;
- ensurance, in legal conditions, of the state protection of supreme official persons of the republic and of state officials and public leaders from other states being present in the Republic of Moldova.

The Law No. 45-XIII of 12.04.1994 on operative investigations activity

Operational measures on investigations are conducted strictly in accordance with the legislation in force. In view of performing their tasks, the bodies which execute operative investigations activity, directed by the rules of conspiracy, are in right:

- a) to question citizens;
- b) to collect information;
- c) to conduct visual pursuit;

- d) to pursue and to gather evidence using modern technical methods and means;
- e) to collect materials (samples) for comparative inquest;
- f) to perform control acquisitions and supplies of goods and products from free or limited circulation;
- g) to inspect objects and acts;
- h) to identify persons;
- i) to inspect buildings, premises, plots of ground and vehicles;
- j) to inspect postal parcels;
- k) to inspect the correspondence of convicts;
- l) to intercept telephone calls and other conversations;
- m) to collect information from the communications channels;
- n) to converse with a suspected person using a lie detector;
- o) to operate marking with chemical or other special substances;
- p) to infiltrate into criminal organizations officers under cover or persons who co-operate in confidential way with the bodies executing operative investigations activity;
- q) to control the transfer of money and other material values extorted.

These three instruments complete the above-mentioned laws, establishing a solid legislative framework for combating terrorism.

- **What preventive controls and surveillance measures exist to ensure that funds and other economic resources collected for religious, charitable or cultural purposes are not diverted for other purposes, particularly for financing terrorism?**

As it was mentioned above, in the answers from Sub-paragraph 1 (c), all organizations which perform financial operations are obliged to report transactions that are suspected of being linked to terrorist acts. Under the existing rules to counter money-laundering, these organizations have a duty to inquire into and report suspicious transactions. This includes a duty to report funds received by charitable and similar associations where there is a suspicion that these funds might be forwarded for terrorist purposes.

- **Please indicate the measures and instruments available to regulate alternative remittance systems.**

According to the national legislation in force, the remittance system in Moldova is regulated and supervised by the National Bank of Moldova. Alternative remittance systems do not exist in the country.

Sub-paragraph 2 (a):

- **Please outline the measures, both legislative and practical, preventing entities and individuals from recruiting, collecting funds or soliciting other forms of support for terrorist activities to be carried out inside or outside the Republic of Moldova, including, in particular:**
 - the carrying out, within or from the Republic of Moldova, of recruiting, collecting of funds and soliciting of other forms of support from other countries; and
 - deceptive activities such as recruitment based on a representation to the recruit that the purpose of the recruitment is one (e.g. teaching) different from the true purpose and collection of funds through front organizations.

Moldovan penal provisions, which attach criminal liability to acts committed to facilitate terrorist acts, directly prohibit recruitment to terrorist groups. According to the Art. 2 of the Law on combating terrorism, which was quoted in the answers from Sub-paragraph 1 (b), as one of a terrorist activity is also "recruitment, equipping, training and use of terrorists".

Art. 63-1 of the Penal Code "Financing or material support of terrorist acts" attaches criminal liability to any person who collect funds or other means to be used for commitment of terrorist acts. The penalty under this article is imprisonment for a term from 10 to 25 years with confiscation of the means designated or used for the commitment of the offence.

- **By what means is the Republic of Moldova able to control the establishment, and operation, within the portions of its territory under control from the capital, of paramilitary groups that have the potential to engage in terrorist activities?**

In the Republic of Moldova there are 4 paramilitary units, created within the Ministry of Transports and Telecommunications and the Ministry of Energetics, and 145 private companies offering security, guard and private detectives services. Their activity is controlled by the Ministry of Interior, in accordance with the stipulations of the Law on arms No. 110-XIII of 18.05.1994 (completed and modified by the Law No. 563-XV of 19.10.2001), and of the Law No. 451-XV of 30.07.2001 on the licensing of some kinds of activities.

- **What measures does the Republic of Moldova have in place to prevent terrorists obtaining weapons, in particular small arms or light weapons, within the portions of its territory under control from the capital? Please outline the Moldavian legislation concerning the acquisition and possession, and import and export, of weapons.**

The basis of the state control on manufacture, trade, acquisition, possession, application, import and export of weapons and munitions is established by the Law on arms No. 110-XIII of 18.05.1994 (completed and modified by the Law No. 563-XV of 19.10.2001). At the same time, the Republic of Moldova is a party to the International Convention on prohibition or limitation of use of certain classic weapons which could be considered as producing excessive traumatic effects or hurting without discrimination (Geneva, 10.10.1980), and to all 4 protocols to the Convention, as well as to the European Convention on the control on the acquisition and possession of firearms by private persons (Strasbourg, 06.11.1978).

Thus, the Law requires a license for all trade in weapons and munitions, acquiring or possessing a firearm in Moldova requires a permit from the police. Permits are issued after a thorough police checks. Private persons could possess only the following weapons: a) for self-defense; b) for hunting; c) for decoration and for collection (panoply); d) revolvers and pistols.

All military arms are registered in the State Cadastral Survey of Arms, all privately owned arms are registered in the State Register of Arms. The owners of firearms are required to keep their weapons under lock and key. If a weapon is lost or falls into wrong hands, this must be reported to the police. The police may also verify that weapons are being kept under secure conditions in private homes.

Sub-paragraph 2 (b):

- **Does the Republic of Moldova have a body specialized in counter-terrorism, or is that the responsibility of a number of departments or agencies? In the latter case, how is co-ordination between the various entities effected?**

National authorities which are enabled to conduct activity on combating terrorism are the following:

- (1) **Government** is the main authority responsible for the organization of activity on combating terrorism and for ensuring of this with forces, means and necessary resources. Coordination of activities of all entities involved in combating terrorism is effected by the Supreme Security Council of the Republic of Moldova.

- (2) Local public authorities participate in combating terrorism within their mandates established by the legislation and other normative acts.
 - (3) Authorities which are directly involved in activity on combating terrorism, are the following:
 - a) General Prosecutor's Office
 - b) Information and Security Service
 - c) Ministry of Interior
 - d) Ministry of Defence
 - e) Department of Border Troops
 - f) Department of Exceptional Situations
 - g) Protection and State Guard Service
 - h) Department of Customs
 - i) Department of Information Technologies.
 - (4) It is provided that within the Information and Security Service, Ministry of Interior, Protection and State Guard Service and the Department of Penitentiary Institutions of the Ministry of Justice specialized structures on combating terrorism will be created soon.
 - (5) In the activity of prevention, tracing out and stopping of terrorist activities could participate, within their mandates, other bodies of public administrations, in the way established by the Government.
- Does each agency define its strategy independently, or does it carry out measures that have been established at a higher level? Who determines that policy and, if applicable, the distribution of tasks among agencies?

National authorities which conduct activity on combating terrorism have the following mandates:

- (1) **General Prosecutor's Office** conducts its activity on combating terrorism through directing and executing of the criminal inquest, and through the supervision of observance of the legislation within the criminal inquest.
- (2) **Information and Security Service** and its territorial branches combat terrorism through the actions of prevention, tracing out and stopping of offences with terrorist character, including those with political purposes, as well as of international terrorist activity. According to the legislation on criminal procedure, the Service conducts criminal inquest and preliminary investigation in criminal cases with the signs of terrorism, contributes to the ensurance of security of the institutions of the Republic of Moldova located on the territory of other states, of moldovan citizens employed in these institutions and members of their families, collect information on the international terrorist organizations.
- (3) **Ministry of Internal Affairs** combats terrorism through prevention, tracing out and stopping of offences with terrorist character which have in view material purposes.
- (4) **Ministry of Defense** ensures protection of arms, munitions, explosive substances, military objects and air space of the country during the conducting of the anti-terrorist operations.
- (5) **Department of Border Troops** and its territorial subdivisions combat terrorism through the stopping of terrorists attempts to cross the state border of the Republic of Moldova.
- (6) **Department of Exceptional Situations** executes actions of civil protection, organizes rescue operations and other urgent measures on liquidation of terrorist acts consequences.
- (7) **Protection and State Guard Service** ensure the security of persons and object under its protection, collect, analyze and use data on the terrorist activity in order to prevent, trace out and stop terrorists attempts. The Service co-operates and co-ordinates its actions with all authorities which conduct activity on combating terrorism, including similar services from other states.
- (8) **Department of Customs** combats terrorism through the actions of prevention, tracing out and stopping of attempts of crossing through the state border of the Republic of Moldova of arms, explosive, toxic and radioactive substances and other objects which could be used for commitment of offences with terrorist character.

(9) **Department of Informational Technologies** ensure informational assistance to the authorities which conduct activity on combating terrorism, providing them with informational resources, specialized technical assistance, necessary for creation of data bases and informational networks.

Main tasks of the authorities which conduct activity on combating terrorism:

Central and local public authorities quoted above in art. 5, participate, in an established way, in combating terrorism through:

- a) drafting and implementation of special, organizational, educational and preventive measures in order to prevent, trace out and suppress terrorist activity;
- b) creation of department systems of counteracting of offences with terrorist character and maintaining of the state of preparedness of these systems;
- c) making available of information, material, technical and financial means, vehicles and telecommunications, medical equipment and medicaments;
- d) executing of other tasks, depending on the activity on combating terrorism requirements.

Sub-paragraph 2 (c):

- **Please provide a list of the bilateral and multilateral treaties on mutual assistance in criminal matters and on extradition (apart from the European Convention on Extradition) to which the Republic of Moldova is party.**

The judicial framework which entered in force in the Republic of Moldova, which contains provisions on judicial assistance in criminal matters, is the following:

- CIS Convention on judicial assistance and legal relations in civil, family and criminal trials;
- Bilateral treaties on judicial assistance in civil and criminal matters concluded between Moldova and, respectively, Ukraine, Romania, Russian Federation, Republic of Lithuania, Republic of Latvia and Republic of Turkey.

These international instruments contain a particular chapter which settle providing of judicial assistance in criminal matters, which (with exception of the Treaty with Republic of Turkey) include special provisions on extradition.

The Republic of Moldova is also a party to European Convention on judicial assistance in criminal matters (Strasbourg, 1959) and to its First Protocol.

- **Please provide a detailed outline of the provisions of the Criminal Law, which provide for trial before the courts of the Republic of Moldova of foreign citizens and stateless persons who cannot be extradited.**

According to the art. 21-28 of the Law on judicial status of foreign citizens and stateless persons in the Republic of Moldova, and to the Art. 17 of the Code on Criminal Proceedings "Enforcement of the Law on criminal procedure towards foreign citizens and stateless persons on the territory of the Republic of Moldova", in cases when foreign citizens and stateless persons cannot be expelled or extradited they are brought to justice on the territory of the Republic of Moldova in concordance with the criminal legislation of the Republic of Moldova. Exception could constitute cases when a person has a diplomatic immunity.

Sub-paragraph 2 (f):

- **What is the legal timeframe within which a request for judicial assistance in criminal investigations or criminal proceedings (especially those relating to the financing or other support of terrorist acts) is required to be met and how long, on average, does it actually take in practice to implement such a request in the Republic of Moldova?**

According to the Art. 103 of the Code on Criminal Proceedings of the Republic of Moldova, in cases when a preliminary investigation is mandatory, criminal investigation should be closed in ten days after the date of the trial has started.

In cases when a preliminary investigation is not mandatory, criminal investigation should be closed in a month after the beginning of the trial. This timeframe could be prolonged by the persecutor who supervises the proceedings, but with no more than a month.

In the same time, the internal normative framework of the Republic of Moldova on providing of judicial assistance is too reduced and does not establish precise terms which are required to be met in view of fulfilling of a request for judicial assistance in criminal investigations or criminal proceedings.

Sub-paragraph 2 (g):

- **What measures have been taken to prevent the counterfeiting, forgery or fraudulent use of identity papers and travel documents (as distinct from the punishment of persons who engage in such activities)?**

The national Identity Card of the citizen of the Republic of Moldova and the Travel passport were brought to the standards and requirements specified in the international normative acts: DOC 9303 and ISO 1831-1980/E.

Blank materials for printing and issuing of identity papers are kept in secure conditions, which exclude unauthorized access.

For the protection of these documents there are some following elements provided: special paper; microtext; holograms; magnetic stamp; bicolor stamp printed on every page through the "iris offset" method; numeration of pages; special thread visible in ultraviolet rays; printing of the photo of the owner; stamp and signature of the person responsible for issuance; machine readable zone.

In order to detect cases of counterfeiting of identity papers, the Department of Informational Technologies has installed the on-line regime of reporting and checking of documents for law enforcement bodies (Ministry of Interior, police, Prosecutor's Office).

The Government of the Republic of Moldova has adopted recently the "Concept of the authorized informational system of evidence and control of persons, vehicles and cargo, passing through the state and/or customs border "Frontiera", which was drafted by the Department of Informational Technologies.

With regards to the service and diplomatic passports, as well as to the travel titles, General Consular Department of the Ministry of Foreign Affairs is in charge with their issuance. It has undertaken some additional measures in order to prevent the counterfeiting, forgery or fraudulent use of the above mentioned papers. For example, it sent to all diplomatic missions accredited in the Republic of Moldova the specimens of nominated passports and graphic description of the elements of their protection.

Also, it sent to the relevant national bodies lists of Moldovan citizens who lost the right to hold a diplomatic or service passports, in order to stop their fraudulent use by unauthorized persons.

At present, the Department of Consular Affairs is considering the possibility of improvement and increase of the number of protection elements for the travel titles.

Sub-paragraph 3 (d):

- **The CTC would welcome a report, in relation to the relevant international conventions and protocols relating to terrorism, on the progress made by the Republic of Moldova in:**
 - **becoming a party to the instruments to which it is not yet a party; and**
 - **enacting legislation, and making other necessary arrangements, implement the instruments to which it has become a party.**

In relation to the relevant international convention and protocols relating to terrorism, the Republic of Moldova has fulfilled all internal procedures necessary for entering in force of the conventions, mentioned in sub-paragraphs 3 (a) – 3 (c) of the initial National Report, with the exception of the International Convention for the suppression of the financing of terrorism. Thus, Moldova is a party to the nominated conventions.

In relation to the International Convention for the suppression of the financing of terrorism, as well as to the International Convention for the suppression of terrorist bombings and to the International Convention against the taking of hostages, all materials necessary for their ratification are in the stage of examination by the Parliament. It is expected that in the near future these documents will be ratified.

The European Convention on the legal validity of the judicial decisions on criminal cases and the European Convention on the conveyance of the legal procedure on criminal cases were already signed by the Republic of Moldova, national procedure on their entering in force being initiated.

Agreement on the co-operation of the CIS member states in combating illegal migration was ratified and entered in force for the Republic of Moldova.

- **In view of the requirement of this sub-paragraph for all member states to become party as soon as possible to all of the relevant international conventions and protocols relating to terrorism and the relevance even to landlocked countries of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (by reason, inter alia, of the mobility of citizens and questions affecting extradition), please inform the CTC of the intentions of the Republic of Moldova in relation to those instruments.**

In present, national relevant bodies are considering the opportunity of ratification of the European Convention on the compensation of the victims of violent crimes, the Convention for the suppression of unlawful acts against the safety of maritime navigation and the Protocol for the suppression of unlawful acts against the safety of fixed platforms located on the continental shelf.

Sub-paragraph 3 (e):

- **Have the offences set forth in the relevant international conventions and protocols been included as extraditable offences in the bilateral treaties to which the Republic of Moldova is party?**

The content of this question is formulated ambiguously, because the European Convention on the extradition determines offences for the commitment of which the extradition could be refused (political, military and fiscal offences, with relevant specifications). In this sense, a possibility of refuse on extradition for the commitment of political and military offences is provided in bilateral treaties concluded with Romania and Ukraine.

The general rule for the determination of actions, which could be recognized as extraditable, is stipulated in p. 1 of the Art. 2 of the European Convention on the extradition, namely an offence punished with a penalty of at least of one year detention or more severe penalty. This rule was included in all bilateral treaties mentioned (with the exception of the Treaty with the Republic of Turkey, which does not provide the procedure on extradition), with a specification that in cases when an extradition is requested in order to execute a penalty, it could take place only in cases when a penalty passed is of more than 6 month.

In the same time, p. 3 of the Art. 2 of the European Convention on extradition stipulates that any contractual party the legislation of which does not authorizes extradition for some certain offences mentioned in the p. 1 of the above Article could exclude these offences from the area of application of the Convention. However, the Republic of Moldova did not formulate any notification in this sense in its instrument of ratification.

Sub-paragraph 3 (g):

- **Is it possible under the law of the Republic of Moldova for requests for the extradition of alleged terrorists to be refused on political grounds?**

The Art. 18/5 of the Code on Criminal Proceedings stipulates cases in which an extradition of a person by the Republic of Moldova is not admitted, namely:

- the person who is a citizen of the Republic of Moldova and between the Republic of Moldova and the country which request extradition no treaty on judicial assistance is concluded;
- the offence was committed on the territory of the Republic of Moldova;
- the person, which extradition is requested, was already sentenced for the offence the extradition is requested for, or for the same accusation the criminal trial was stopped;
- the person, which extradition is requested, cannot be brought to justice under the law of the Republic of Moldova, because of the expiration of the terms of limitation, or from other reasons;
- the offence the extradition is requested for is not incriminated by the Criminal Law of the Republic of Moldova.

The Par. 2 of the Art. 18/5 of the Code on Criminal Proceedings stipulates that foreign citizens and stateless persons could be extradite only under a convention or in conditions of reciprocity on the ground of court decision, which is also conditioned in the Art. 17, Par. 4 of Moldovan Constitution.

Thus, the possibility of refuse on extradition of alleged terrorists on political grounds is not provided under the law of the Republic of Moldova.

Paragraph 4:

- **Has the Republic of Moldova addressed any of the concerns expressed in paragraph 4 of the Resolution?**

Moldova shares the concern expressed in the resolution 1373 (2001) relating to the close connection between international terrorism and transnational organized crime, illicit drugs, money-laundering, illegal arms-trafficking, and illegal movement of nuclear, chemical, biological and other potentially deadly materials. Coherent systems of international obligations, domestic legislation, together with regulations providing for practical measures in this field will ensure effective prevention and suppression of terrorist acts.

According to the Law on combating terrorism, international cooperation in the domain of combating terrorism is based in Moldova on the following principles:

- (1) The Republic of Moldova cooperates, in conformity with the international agreements it is a party to, in the domain of combating terrorism with the law enforcement bodies and special services of other states, as well as with the international organizations which activates in this domain.
- (2) In order to ensure security of persons, society and state, the Republic of Moldova pursues on its territory persons involved in terrorist activities, inclusively in cases when terrorist acts were planned or committed outside of it territory, but they caused damages to the country, as well as in other cases stipulated in international agreements to which the Republic of Moldova is a party.

Thus, the coordination of efforts against international terrorism on national, sub-regional, regional and international levels, is matter of concern for Moldova. In this sense, Moldova signed the following relevant agreements on regional and sub-regional levels:

- 1) The Agreement on Co-operation among the Governments of the GUUAM Participating States in the field of Combat against Terrorism, Organized Crime and other Dangerous Types of Crimes (Yalta, 20.07.2002);
- 2) Treaty on Co-operation among States Members of the Commonwealth of Independent States in combating criminality (Moscow, 25 November 1998);
- 3) Treaty on Co-operation among States Members of the Commonwealth of Independent States in combating terrorism (Minsk, 4 June 1999);
- 4) Decision on the Financing of the Activities of the Anti-Terror Center of the CIS member states (Minsk, 30 November 2000);
- 5) Decision on the Anti-Terror Center of the CIS member states (Minsk, 1 December 2000);
- 6) Chart on the Organization and Functioning of the Regional SECI (South-East Cooperation Initiative) Center for combating transborder crime (Bucharest, 26 May 1999);
- 7) Treaty on Co-operation among governments of the BSEC (Black Sea Economic Co-operation) member-states in combating crime, particularly in its organized forms (Kerkyra, Turkey, 2 October 1998).

At the same time, the Republic of Moldova is also a party to the following international instruments, relevant to the subjects mentioned in the Paragraph 4 of the resolution 1373 (2001):

- 1) UN Convention against Transnational Organized Crime (Palermo, 15 December 2000);
- 2) European Convention on money-laundering, tracing out, sequestration and confiscation of incomes originated from criminal activity (Strasbourg, 8 November 1990);
- 3) International Convention against illicit trafficking of drugs and psychotropic substances (20.12.1988);

- 4) International Convention on prohibition of development, manufacture, stock and use of chemical weapons and its destroying (Paris, 13 January 1993);
- 5) International Convention on the prohibition or limitation of use of certain classic weapons which could be considered as producing excessive traumatic effects or hurting without discrimination (Geneva, 10.10.1980);
- 6) European Convention on the control on the acquisition and possession of firearms by private persons (Strasbourg, 06.11.1978).
- 7) Treaty on nuclear weapons non-proliferation (01.07.1968).

Other matters:

- **Could the Republic of Moldova please provide an organizational chart of its administrative machinery, such as police, immigration control, customs, taxation and financial supervision authorities, established to give practical effect to the laws, regulations and other documents that are seen as contributing to compliance with the Resolution.**

The institutional framework, as well as the mechanism of coordination and implementation of anti-terrorist activities and actions is outlined in the answers to the questions from Sub-paragraph 2 (b).

Assistance

In view of the harmonization of Moldovan national legislation to the international standards in the field of combating terrorism, the Government of the Republic of Moldova would like to request from the Counter-Terrorism Committee of the UN Security Council assistance in form of the expertise of domestic legislation in the field. This would offer an opportunity to compare Moldovan normative acts with those existent in the developed countries, as well as would permit, where necessary, to modify and complete national laws and rules with new stipulations, which would facilitate more efficient implementation of the relevant resolutions of the UN Security Council.

At the same time, national ministries and departments involved in the field of combating terrorism had consulted the Directory of Assistance, placed recently on the Web-page of the CTC Committee and expressed their interest towards the following programs:

1. The National Bank of the Republic of Moldova request consideration of the opportunity for participating of one or two officers in each of the following programs of assistance, placed in the chart "Financial Law and Practice":

- "Investigating Financial Underpinning of Terrorism – Senior Seminar", organized by the U.S. Department of State's Bureau of Diplomatic Security;
- "Money Laundering and financial investigative techniques", organized by the Internal Revenue Service (USA Treasury)
- "Transnational Money Laundering", organized by the Office of Overseas Prosecutorial Development Assistance and Training (USA Department of Justice);
- Money Laundering Seminar, organized by the USA Customs Service (USA Treasury)

2. The General Prosecutor's Office has expressed its interest towards the following programs of assistance:

- Co-operation with the Section of financial information TRACFIN (France) in the field of collecting information and money laundering techniques;

- Co-operation with the U.S. State Department in the field of combating of transnational money laundering;
- Including of Moldova in the European Commission Program on combating money laundering;
- Co-operation with the Ministry of Justice of France in the fields of drafting counter-terrorism legislation and extradition law and practice;
- Co-operation with the U.S. Department of Justice and the U.S. State Department in the field of transnational judicial assistance.

3. The Information and Security Service has expressed its interest in any programs and courses which could be provided under the following sections of the Directory:

- Drafting of counter-terrorism legislation
 - Immigration Law and practice
 - Illegal arms trafficking.
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